

March 10, 2020

**VIA ECF**

The Honorable Nina Gershon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**RE: *In re Restasis (cyclosporine ophthalmic emulsion) Antitrust Litigation*  
Case No. 18-md-2819-NG-LB**

Dear Judge Gershon:

Pursuant to the Court's Minute Order dated January 22, 2021, the parties write to identify the non-parties and former parties (the "Non-Parties") that were notified that their documents and testimony were submitted in connection with the pending summary judgment and *Daubert* motions, and whether they wish to be heard.

The parties contacted the following Non-Parties regarding certain documents that were submitted under seal:

- Akorn
- Amneal
- Apotex
- CVS Caremark
- Deva Holding
- Famy Care
- HEB Grocery Company
- KPH
- MedImpact
- Pfizer (InnoPharma)
- Mylan
- Rxtra
- Teva
- TWi
- Walgreens<sup>1</sup>

In response to the parties' inquiries, the Non-Parties confirmed that some documents did not need to be under seal and requested that others remain sealed.

After these responses, neither Allergan nor EPPs seek to make public any Non-Party's confidential materials in connection with the currently pending summary judgment and *Daubert* motions. Allergan plans to move to seal all Non-Party documents that were not in the joint motion and that the Non-Parties have confirmed remain competitively sensitive and confidential, and EPPs will not oppose sealing this Non-Party information.

---

<sup>1</sup> The parties did not contact other non-parties who have produced documents in this litigation because neither party had any questions about the other non-parties' documents.

To: The Honorable Nina Gershon

Re: *In re Restasis (cyclosporine ophthalmic emulsion) Antitrust Litigation*,

Case No. 18-md-2819-NG-LB

March 10, 2021

Page: 2 of 4

In light of the fact that none of the parties opposes sealing any Non-Party's confidential information, and after further discussions with the Non-Parties, Allergan and EPPs propose that a schedule for Non-Party briefing is not necessary at this time. Instead, the parties request that if the Court believes that the motions to seal do not sufficiently support sealing of any Non-Party's confidential information, the Court provide the parties with 30 days' notice prior to ordering that the information be unsealed. During that 30-day period, the parties will provide notice to the affected Non-Parties and invite them to provide additional briefing or information if they wish to be heard. Allergan and EPPs believe that this solution will allow for more efficient and streamlined briefing to the Court, and allow the Non-Parties to focus any further briefing, if needed, on particular documents that concern the Court.

Finally, due to the time that it has taken to meet and confer with the Non-Parties, and because of the extensive amount of materials that are at issue, the parties also request a short extension to the following deadlines.

Event	Current date	New date
Deadline to serve motions to seal any remaining documents (disputed or non-disputed)	March 16, 2021	April 6, 2021
Deadline to file redacted public versions of the Summary Judgment Motions and Daubert Motions	March 16, 2021	April 12, 2021
Responses/Oppositions to motions to seal	March 26, 2021	April 16, 2021
Replies in support of motions to seal	April 5, 2021	April 26, 2021
Submissions by Non-Parties	N/A	Within 30 days of any order from the Court providing such Non-Party with notice that inadequate support has been provided for sealing

The parties have not previously requested an extension of time in connection with this briefing schedule.

Respectfully submitted,

By: /s/ Dena C. Sharp  
Dena C. Sharp

By: /s/ Eric J. Stock  
Eric J. Stock

To: The Honorable Nina Gershon  
Re: *In re Restasis (cyclosporine ophthalmic emulsion) Antitrust Litigation*,  
Case No. 18-md-2819-NG-LB  
March 10, 2021  
Page: 3 of 4

Scott M. Grzenczyk  
Tom Watts  
GIRARD SHARP LLP  
601 California Street, Suite 1400  
San Francisco, CA 94108  
Telephone: (415) 981-4800  
Facsimile: (415) 981-4846  
dsharp@girardsharp.com  
scottg@girardsharp.com  
tomw@girardsharp.com

Joseph R. Saveri  
Keydon Levy  
Kyle P. Quackenbush  
JOSEPH SAVERI LAW FIRM, INC.  
601 California Street, Suite 1000  
San Francisco, California 94108  
Telephone: (415) 500-6800  
Facsimile: (415) 395-9940  
jsaveri@saverilawfirm.com  
klevy@saverilawfirm.com  
kquackenbush@saverilawfirm.com

Eric B. Fastiff  
Adam Gitlin  
LIEFF CABRASER HEIMANN &  
BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008  
efastiff@lchb.com  
agitlin@lchb.com

*Interim Co-Lead Counsel for the End-Payor  
Class Plaintiffs*

Dan Drachler (DD 1526)  
Robert S. Schachter (RS 7243)  
Sona Shah (SS 4712)  
ZWERLING, SCHACHTER &  
ZWERLING, LLP

GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166-0193  
Tel: (212) 351-4000  
Fax: (212) 351-4035  
estock@gibsondunn.com

Matthew C. Parrott  
GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
Irvine, CA 92612-4412  
Tel.: (949) 451-3800  
Fax: (949) 451-4220  
mparrott@gibsondunn.com

*Attorneys for Defendant Allergan, Inc.*

To: The Honorable Nina Gershon

Re: *In re Restasis (cyclosporine ophthalmic emulsion) Antitrust Litigation*,

Case No. 18-md-2819-NG-LB

March 10, 2021

Page: 4 of 4

41 Madison Avenue

32nd Floor

New York, NY 10010

Telephone: (212) 223-3900

Facsimile: (212) 371-5969

ddrachler@zsz.com

rschachter@zsz.cpm

sshah@zsz.com

*Liaison Counsel for the End-Payor Class  
Plaintiffs*